

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 95-223**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

### **2. Form, Style and Placement in Administrative Code**

a. In the amendment of s. NR 718.09 (1), the title of s. NR 718.09 should not be included. [See also ss. NR 718.11 (1) and 718.13 (1).]

b. In s. NR 718.09 (8) (c), the first sentence does not grammatically lead into the following subunits. Consequently, this material should be renumbered as subd. 1. and the remaining subdivisions and internal cross-references should be renumbered accordingly. [See, also, the introductory material in sub. (8) (c) 2. An example of more appropriate structure can be found in sub. (8) (c) 6.]

c. In s. NR 718.09 (8) (c) 3., subd. par. a. is an incomplete sentence, while subd. par. b. is a complete sentence. The structure of these subdivision paragraphs should be made consistent.

d. In s. NR 718.09 (8) (c) 6., presumably the department can take any, or all, of the actions described in subd. pars. a. to d. Consequently, in subd. 6. (intro.), the phrase “take any of the following actions” should be inserted after the word “may.”

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Section NR 518.02 (3) includes a cross-reference to “ch. NR 718.” Can this reference be made more specific, so that it applies only to s. NR 718.09?

b. Section NR 718.09 (8) (b) could be clarified by listing the exceptions in three numbered paragraphs.

c. In s. NR 718.09 (8) (c) 1., “within 60 days of” is ambiguous, because it can be before or after the designated date. “Within 60 days after” is suggested to resolve this ambiguity. The same ambiguity occurs at a number of other places in the rule.

d. Section NR 718.09 (8) (c) 2. applies to both eligible contaminants and landspreading facilities. There appears to be no reason why these requirements could not be separated into two subdivisions. Also, the first part of the introductory paragraph could be clarified by rewriting it as “soil contaminated by gasoline...and no other hazardous substance....”

e. The first phrase in s. NR 718.09 (8) (c) 2. a. is superfluous because it merely restates the requirement already expressed in the introductory paragraph of that subdivision.

f. Section NR 718.09 (8) (c) 2. a. and a number of other places in the rule refer to a “facility” or “landspreading facility.” It is not clear what is the area of land that constitutes a facility. Does this mean only the area where contaminated soil is spread, or does it include the entire parcel? This issue is particularly important to resolve for purposes of s. NR 718.09 (8) (c) 4. e.

g. How must a wellhead protection area be “delineated” for purposes of s. NR 718.09 (8) (c) 2. a.?

h. It is not clear why s. NR 718.09 (8) (c) 2. e. is necessary, if the introductory paragraph states that only soil contaminated with the listed substances may be landspread.

i. Section NR 718.09 (8) (c) 2. g. imposes a requirement regarding surface slope. Over what portion of a “facility” is the slope measured?

j. Section NR 718.09 (8) (c) 5. is titled “Facility operation,” but the contents of that subdivision relate almost entirely to a report that must be submitted to the department.

k. Section NR 718.09 (8) (c) 6. refers to “complete treatment” of contaminants. The rule does not state what is meant by “complete treatment.” Is reduction of contaminants as described in s. NR 718.09 (8) (c) 5. e. sufficient?

l. “Impacting” should be replaced by “affecting” in s. NR 718.09 (8) (c) 6. b.

m. “Replaced” should be spelled correctly in s. NR 718.11 (1).